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Federal Communications Commission
Office of Secretary

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Southwestern Bell Telephone Company)
Petition for Forbearance from Application)
of Section 272 of the Communications Act)
of 1934, as amended, to Previously)
Authorized Services)
)
Pacific Telesis Group)
Petition for Forbearance from)
Application of Section 272 of the)
Communications Act of 1934,)
as Amended, to Previously)
Authorized Services)

DOCKET FILE COPY ORIGINAL

CC Docket No. 96-149

REPLY COMMENTS OF SBC COMMUNICATIONS INC.

SBC Communications, Inc. ("SBC"), by its attorneys, files these reply comments in connection with the above-referenced petitions for forbearance filed by Southwestern Bell Telephone Company ("SWBT") and the former Pacific Telesis Group ("Pacific"). The Commission should grant both of these petitions expeditiously. Both petitions are in keeping with the Commission's important statutory directive to promote the safety of life and property,¹ and both satisfy the requirements for forbearance.² The Commission should not allow the two commentators who do not express their unqualified support - MCI and AT&T - to hold these petitions hostage until their unrelated demands are met.

¹47 U.S.C. Section 151.

²47 U.S.C. Section 160.

I. DISCUSSION

Preliminarily, SBC confirms that its petitions request forbearance from any potential application of Section 272 of the Telecommunications Act of 1996 ("Act") to SWBT's and Pacific's provision of E911 services. In other words, the E911 services provided by these companies should be excluded from those "for which a separate affiliate is required" under Section 272(a)(2).³ While MCI would seek to have the Commission impose Section 272(c)(1) and (e) upon the BOCs, these provisions only apply to the dealings between a BOC and the separate affiliate that may be "required by" Section 272.⁴ These statutory obligations should not apply inasmuch as SBC's petitions, if granted, would moot their application.

MCI broadly asserts that the marketplace cannot be trusted to prevent discrimination so that it is inconceivable that a dominant carrier could ever demonstrate, in any context, the first element of the forbearance test -- that enforcement is not necessary to ensure that the carrier's practices "are not unjustly or unreasonably discriminatory."⁵ MCI is wrong. As an initial matter, MCI's distrust of the marketplace and forbearance from regulation directly conflicts with

³The grant of forbearance would necessarily excuse compliance with the Commission's rule requiring that previously authorized interLATA information services must be provided "through a section 272 affiliate" as provided by Commission Rule 53.201(a)(1). 47 C.F.R. Section 53.201(a)(1). The Commission adopted this rule because of its determinations that Section 272(a)(2)(B)(iii) (which exempts previously authorized activities from the separate affiliate requirements) is limited to origination of interLATA telecommunications services and that Section 272(a)(2)(C) (which imposes separate affiliate requirements) does not exempt previously authorized interLATA information services. Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-149, FCC 96-489, First Report and Order, released December 24, 1996 ("Non-Accounting Safeguards Order"), paras. 78-79.

⁴47 U.S.C. Section 272(b), (c).

⁵MCI, at 3, citing 47 U.S.C. Section 160(a)(1).

the “procompetitive, de-regulatory national framework” erected by the Act.⁶ Moreover, Congress’ unqualified reference to “telecommunications carriers or telecommunications services” in Section 160(a) reflects its intention not to limit the Commission’s forbearance authority only to the services of non-dominant carriers.⁷ MCI cites no specific incident or complaint filed with the Commission demonstrating unjust or unreasonable discrimination in the provision of E911 services and, in the absence of such, MCI’s sweeping claims should be rejected.

In addition, were MCI’s claim well taken, the Commission could not have suggested, as it did, that even if educational interactive services were subject to Section 272 under Section 272(a)(2)(C), “section 10 mandates” forbearance from the application of Section 272 to these services.⁸ Importantly, the Commission did not place Section 272(c)(1) or (e) obligations upon the BOCs in that context. Forbearance from the application of Section 272 to E911 services, which advance the safety of life and property in the first instance, is at least as urgent as forbearance regarding educational interactive services.

At the root of MCI’s claims is its intention to use this E911 proceeding (which stems from CC Docket No. 96-149 and Section 272 of the Act) as leverage to secure certain listing

⁶Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Second Report and Order, FCC 96-333, released August 8, 1996, para. 1 (further citation omitted).

⁷Of course, there is a dual nature to Section 160. It not only confers forbearance authority upon the Commission; it requires the Commission to exercise that authority where applicable. Non-Accounting Safeguards Order, para. 81. For the reasons stated by SWBT and Pacific in their petitions, and those stated by BellSouth’ Reply regarding its Petition for Forbearance, the BOCs’ integrated provision of E911 services clearly satisfy the Section 160 three-part test. BellSouth Reply, filed March 17, 1997, at 5-7.

⁸Non-Accounting Safeguards Order, para. 95.

arrangements and Public Service Answering Point ("PSAP") agency numbers for its operator services group (matters which MCI claims are owed it under CC Docket No. 96-98 and Section 251 of the Act).⁹ AT&T, too, claims that it should be provided unlisted and third-party-LEC information.¹⁰ These attempts should be rejected for the several reasons previously stated by BellSouth. MCI and AT&T have adequate legal remedies available to them should either conclude they have a prima facie case of a violation of the Act's provisions -- including redress before a United States District Court, this Commission, or in the context of an arbitration of any disputed provision of an interconnection agreement.¹¹

Furthermore, there is no factual nexus or relationship between SBC's BOCs' E911 systems which handle calls made as a result of dialing "911" and the handling of calls to operators when a caller dials "0-" seeking emergency assistance. Nor is there any proprietary list maintained by the E911 organizations of non-published 10-digit numbers used to dial a 911 center when someone calls the operator instead of dialing 911. Any such 10-digit numbers used in conjunction with provisioning 911/E911 services, or in the contingency planning of such services, are obtained from each 911 PSAP agency based on a comparison of the correlation of SWBT's or Pacific's wire center boundaries and the PSAP agency's jurisdictional boundaries.

It would be a mistake to assume that any of those numbers could simply be used by AT&T or MCI, due in part to significant differences in the boundaries of the geographic area AT&T or MCI might plan to serve from a switch in their networks. In light of this and other considerations, it is not SBC's place to advise MCI or AT&T as to the appropriate number to

⁹MCI, at 5.

¹⁰AT&T, at 3, n.6.

¹¹BellSouth Reply, filed March 17, 1997, at 7-8.

dial when one of their subscribers dials "0-" in an emergency. Rather, AT&T and MCI must devote the necessary planning effort to explain to the PSAP agency their unique geographic correlation before any determination is made that an emergency call would be rerouted to that PSAP via a dialable number from subscribers served by that switch. AT&T and MCI seek a dangerous shortcut to this crucial planning effort. Absent that effort, a 911 call could originate from far beyond the jurisdiction of the PSAP agency, in which case it would have to be handled without the location identification otherwise received on a 911 call.

SBC appreciates that MCI's and AT&T's comments appear to evince a degree of frustration over how to obtain a "dialable" 10-digit number to call in "0-" emergency call situations. SBC also understands that in some states, it is customary for 911 systems to route "overflow" 911 calls to a long distance operator. However, such overflow routing is not done in any of the SBC's in-region states. Rather, in the rare instance in which all of the dedicated 911 trunks are busy (e.g., an unanticipated disaster situation), the 911 network returns a busy signal. Therefore, to the extent that MCI's and AT&T's frustrations rest on any 911 overflow routing process, the point is not relevant.

If MCI or AT&T are having difficulty securing the appropriate 10-digit numbers they would need to complete an emergency call handled by their operator services vendor, it is an operator services issue that must be resolved by their working with the affected PSAP agencies. On the other hand, if they are planning to design (or have already designed) their switches to re-route a 911 call from their switch to their operator services vendor when all of the dedicated 911 trunks are busy, they are creating this problem for themselves and are not being consistent with the local specifications for 911 service they were provided during interconnection negotiations.

II. CONCLUSION

For the foregoing reasons, SBC submits that the petitions for forbearance of SWBT and Pacific should be granted in their entirety, so that these companies' E911 personnel and operations may continue to deliver E911 services on an integrated basis and in an efficient and cost-effective manner.

Respectfully submitted,

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Certificate of Service

I, Elaine Temper, hereby certify that Southwestern Bell Telephone Company's reply comments to CC Docket NO. 96-149 has been served this 6th day of May, 1997 to the Parties of Record.

A handwritten signature in cursive script, reading "Elaine Temper", is written over a horizontal line.

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